

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

AMEREN TRANSMISSION COMPANY OF ILLINOIS)	
)	
Petition for a Certificate of Public Convenience and)	
Necessity, pursuant to Section 8-406.1 of the Illinois)	Docket No. 12-0598
Public Utilities Act, and an Order pursuant to Section 8-)	
503 of the Public Utilities Act, to Construct, Operate and)	
Maintain a New High Voltage Electric Service Line and)	
Related Facilities in the Counties of Adams, Brown,)	
Cass, Champaign, Christian, Clark, Coles, Edgar, Fulton,)	
Macon, Montgomery, Morgan, Moultrie, Pike,)	
Sangamon, Schuyler, Scott and Shelby, Illinois.)	

REHEARING BRIEF ON EXCEPTIONS OF
AMEREN TRANSMISSION COMPANY OF ILLINOIS

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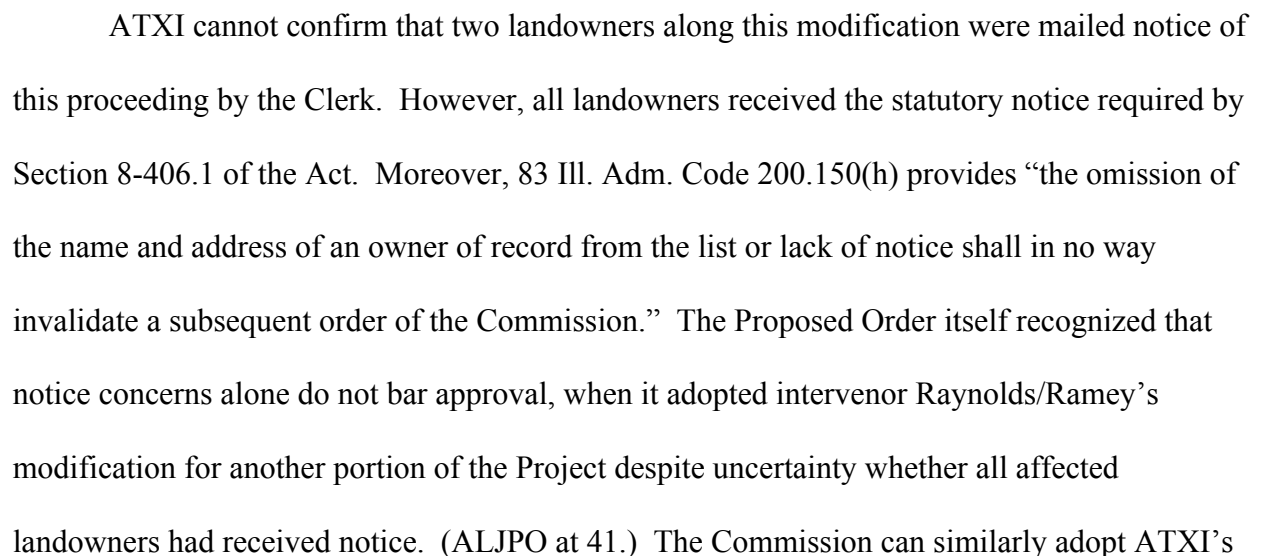
EXCEPTIONS OF AMEREN TRANSMISSION COMPANY OF ILLINOIS

A. Exception 1: The Commission should modify the Corzine Route from Pana to Mt. Zion to avoid Conservation District land, or approve ATXI's Blended Route.

Though not a route advocated by any party during rehearing, the Proposed Order approves Mr. Leon Corzine's Highway 51 alternative and a portion of Staff's Kincaid route (Corzine Route) as the route from Pana to Mt. Zion. (ALJPO at 48-49.) Macon County Conservation District (MCCD), who was not a party in the underlying proceeding but intervened during the rehearing phase, owns three parcels of property along the Corzine Route, near where Highway 51 and the Staff Kincaid route intersect: twin parcels on either side of Highway 51 just north of Walker Road, and property to the northeast between Woodstock Road and Riley Road. (MCCD Exs. 1-3.) By statute, ATXI cannot condemn an easement across MCCD land (70 ILCS 410/12b ("Property owned by a conservation district may not be subject to eminent domain or condemnation proceedings.")), which means that the location of the route in proximity to MCCD land creates uncertainty about ATXI's ability to construct it. The Proposed Order acknowledges this concern and that the Corzine Route "does not avoid the MCCD property, which is just east of Highway 51," but "trusts that ATXI will work to address this obstacle." (ALJPO at 49.) However, it is unclear whether, in so stating, the Proposed Order recognizes that Highway 51, and so the Corzine Route, passes through a "choke point" between the twin MCCD parcels, just south of where it turn east on the Staff Kincaid route. (See MCCD Ex. 2; *see also* Figure 1, *infra*.) If ATXI could not obtain rights to cross one of these parcels at the "choke point," it would present a significant obstacle to completion of the route as directed by the Proposed Order.

In light of these concerns, ATXI has designed a minor modification that avoids all MCCD-owned property, as shown on the map below. ATXI recommends approving this

Figure 1:



modification.

If the Commission does not adopt ATXI's modification, it can instead avoid the MCCD "choke point" and the uncertainty it brings by approving the Blended Route (ATXI's Primary (Stipulated) Route, as modified to follow the Kincaid route to Staff substation site Option 2), instead of the Corzine Route. The Blended Route has been fully vetted by ATXI, while the Corzine Route presents the concerns identified in ATXI's Initial Brief. (ATXI Init. Br. at 32-33.) No party supports or otherwise recommends the Corzine Route on rehearing. By contrast, only intervenor Sprague opposed the Blended Route on rehearing.

The Proposed Order recognizes the possible difficulties with the MCCD property, but concludes, "[i]f need be, the Commission will entertain requests for a revised route under Section 8-406 to avoid the MCCD land." (ALJPO at 49.) However, a separate amendment proceeding jeopardizes ATXI's ability to have the line in service by 2016, when needed to meet the reliability needs in the Decatur area. As the Proposed Order recognized earlier regarding Ms. Cooley's proposal to defer a decision on the Kincaid connection, "given the reliability concerns for the Decatur area, deferring action in this case will only increase the likelihood that those reliability concerns will not be resolved until well after 2016." (ALJPO at 16.) The regulatory approval process to amend a certificate could take 6-12 months under Section 8-406. *See generally, ComEd*, Docket 11-0692, Final Order (Nov. 8, 2012) (case filed October 2011, interim order issued, May, 2012.) Assuming ATXI could file a new petition in the fall of 2014, an order might not be issued until mid-2015. Once a final order is issued, ATXI must generally allow at least six months for final line design and acquisition of property rights, some period of time for preparation of the Section 8-509 filing, at least 45 days for Commission eminent domain authority proceedings, 220 ILCS 5/8-509, and one year for any potential circuit court

condemnation proceedings. *See, e.g. discussion at Ameren Ill. Co.*, Docket 13-0516, Final Order, p. 4 (Oct. 23, 2013). ATXI could therefore still be acquiring the necessary easements in 2016 and 2017, too late to meet the reliability needs in the Decatur area. However, another filing is not required, as the Commission has before it two viable solutions: a modification to the Corzine Route (Figure 1 above) or the Blended Route. ATXI recommends that the Commission approve the modification to the Corzine Route.

Appropriate exceptions language is included in Appendix A.

B. Exception 2: The routes proposed for Mt. Zion to Kansas are *not* comparable with respect to the “Proximity to Homes and Other Structures”; it is undisputed that the Moultrie PO Route impacts fewer residences.

In comparing proposals for the Mt. Zion to Kansas segment, the Proposed Order groups the criteria “Number of Affected Landowners and Stakeholders,” “Proximity to Homes and Other Structures,” and “Proximity to Existing and Planned Development” together and concludes: “the Commission is unable to find, based on the evidence presented, that either route is preferable when considering these criteria.” (ALJPO at 76.) This finding is erroneous. The evidence shows that the Moultrie PO Route impacts far fewer residences—as even PDM/CFT admit. (PDM Br. on R’hg at 53.) The final order should therefore adopt the Moultrie PO Route. *Bus. & Prof. People for Pub. Interest v. Ill. Comm. Comm’n*, 146 Ill. 2d 175, 196 (1991) (holding that the Commission must “issue[] findings which were supported by the manifest weight of the evidence”).

The Proposed Order notes the parties’ disagreement about the number of residences along each route, and questions how different parties came up with different calculations. (*See* ALJPO at 74-76.) However, no party has challenged the information provided by ATXI and MCPO as to number of residences in the 0-75, 0-150, and 0-300 foot corridors. (ATXI Ex. 3.1 (RH); MCPO Ex. 2.2RH, p. 4; *see also* PDM/CFT Br. on Rh’g, pp. 27-52.) And the differing

calculations of impacted residences at distances beyond 300 feet are largely explained by one factor: distance from the centerline of the proposed route used to measure impacted residences. Staff considered residences within 400 feet to be impacted by a route. (Tr. 358.) ATXI and MCPO considered residences within 500 feet. (ATXI Ex. 3.1(RH), p. 4; MCPO Ex. 1.2 (RH).) When examining the Moultrie PO Route, PDM/CFT bumped out their zone of impact to 530 feet. (PDM Ex. 8.0, p. 32.) So it is not surprising that parties who used different distances from the centerline came up with different numbers of impacted residences. (With this said, ATXI is the only party that *field verified* the number of residences. (ATXI Ex. 3.0 (RH), p. 17; Tr. 150-51).) But the record shows that the Moultrie PO Route impacts fewer residences regardless of how far from the centerline the impact is measured:

Party	Distance from center line considered	Residences in proximity to Moultrie PO Route	Residences in proximity to PDM/CFT Route
ATXI ¹	500 feet	12	31
MCPO ²	500 feet	12	31
Staff ³	400 feet ⁴	3	15
PDM/CFT ⁵	530 feet	19	30 ⁶

Different corridor widths largely undermine PDM/CFT’s allegations about “questionable” evidence. PDM’s analysis of the Moultrie PO Route looked at a 530-foot corridor. (PDM/CFT Br. on Rh’g at 33; PDM Ex. 8.0, p. 32.) MCPO relied on ATXI’s analysis of the number of homes (Tr. 263-64), which used a 500-foot corridor. (ATXI Ex. 3.1 (RH), p. 4.) It is true enough that PDM/CFT counted seven more residences than ATXI on the Moultrie PO Route

¹ ATXI Ex. 3.1 (RH), p. 4.

² MCPO Ex. 1.2 (RH).

³ Staff Br. on Rh’g at 22-23.

⁴ Tr. 358.

⁵ PDM/CFT Br. on Rh’g at 33-51.

⁶ PDM Ex. 8.0, p. 32. This number is based on ATXI’s 500 foot corridor, not 530 feet.

(PDM/CFT Br. on Rh'g at 33-51), but each of these was more than 500 feet from the centerline.⁷ In other words, PDM's "missed structures" are the result of applying a 530 feet corridor to Moultrie PO Route instead of the 500 feet ATXI and MCPO used. This may be the very reason PDM/CFT went 530 feet out instead of 500: to capture additional residences and overstate the number of impacts. Moreover, PDM did not apply its 530 foot corridor to the PDM/CFT Route, but relied on ATXI's 500 foot corridor. (PDM Ex. 8.0, p. 32). And while the Commission has used 500 feet as a point of reference, *see, e.g. Ill. Power Co.*, Docket 06-0179, Order, p. 16 (May 16, 2007), ATXI is not aware of 530 feet being used.

The law requires the Commission to articulate its findings with such specificity as to allow informed review. 220 ILCS 5/10-201(e)(iii); *Citizens Util. Bd. v. Ill. Comm. Comm'n*, 291 Ill. App. 3d 300, 303, 305-06, 308-10 (1st Dist., 1997). But the Proposed Order's basis for determining that either route is preferable for "Proximity to Homes and Other Structures" is that "PDM/CFT believes the evidence presented is questionable, and that various structures were missed" along the Moultrie PO Route. (ALJPO at 76.) Given the evidence described above, this reasoning is insufficient for informed review. Furthermore, given the weight the Commission places on a line's proximity to residential structures, this criterion must be addressed, even if the parties have differing views. It is incumbent upon the Commission to critically review the record and make the necessary findings.

A finding that the Moultrie PO Route is preferable in terms of proximity to residences clearly tips the scale in favor of approval of the Moultrie PO Route. The Proposed Order has already found that there is no difference between the two routes for most of the twelve criteria.

⁷ The seven additional residences are listed in PDM/CFT's Brief on Rehearing as Residences 3, 6, 7, 11, 12, 16, and 19. Each of these residences is identified in PDM/CFT's Brief on Rehearing as being located more than 500 feet from the centerline. (PDM/CFT Br. on Rh'g, at 33-51.)

Although the PDM/CFT and Staff Routes are shorter and cost less, the Commission has traditionally placed heavy emphasis on the proximity of proposed transmission lines to homes and residences, and has approved transmission line routes that are longer and more expensive in order to avoid residences. *See, e.g. Ill. Power Co.*, Docket 06-0179, Order at 16-17 (although the approved proposal was “longer and thus more costly, it provides, among other things, an important benefit of avoiding the siting of high-voltage transmission lines in close proximity to residential dwellings”); *Ill. Power Co.*, Docket 06-0706, Order on Reopening, p. 27 (June 23, 2010) (finding that, under the criterion “proximity to homes and other structures,” the route’s “proximity to occupied homes carries the most weight”). In fact, the Proposed Order itself recognizes that “Proximity to Homes and Other Structures” is an “important criterion.” (ALJPO at 27.)

Appropriate exceptions language is included in Appendix A.

C. Exception 3: The Final Order’s Appendices should include both maps and legal descriptions of the approved routes.

In granting a Certificate for a transmission line, the Commission typically includes an Appendix or Appendices that include both a map of the approved route(s) and their legal description. *See, e.g. Ameren Ill. Co.*, Docket 12-0154, Amendatory Order (Oct. 24, 2012); *Ameren Ill. Co.*, Docket 12-0080, Final Order (Aug. 15, 2012); *Commonwealth Edison Co.*, Docket 11-0692, Final Order (Nov. 8, 2012). Although the Proposed Order grants a Certificate for “construction, operation, and maintenance by Ameren Transmission Company of Illinois of segments of a 345 kV electric transmission line over routes found appropriate at locations shown on Appendix B attached hereto,” it is unclear whether the intention is to include legal descriptions as well as maps in Appendix B (the ALJ’s Post Record Data Request of January 17, 2014 requests only maps). ATXI therefore recommends that the Commission direct ATXI to

provide, as a compliance filing no later than 10 days after the final order is issued, an Appendix C containing a legal description for each of the final approved routes for the Project. ATXI further recommends that the final order's Certificate language reference such Appendix C as shown in the accompanying exceptions language.

WHEREFORE, for the reasons set forth above, ATXI requests that the Commission adopt the Exceptions discussed above and set forth in the respective sections of Appendix A.

Dated: January 29, 2014

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Albert Sturtevant, an attorney, certify that January 29, 2014, I caused a copy of the foregoing *Rehearing Brief on Exceptions of Ameren Transmission Company of Illinois* to be served by electronic mail to the individuals on the Commission's Service List for Docket 12-0598.

/s/ Albert D. Sturtevant

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